

Meeting of the Professional Surveying Committee  
of the Board of Licensure for Professional  
Engineers & Professional Surveyors held at 1:00  
p.m., April 19, 2007 at the Board Office at 4001  
Office Court Drive, Ste. 903, Santa Fe, NM.

Members Present Charles Atwell, PSC Chair  
Salvador Vigil, PS, PSC Vice Chair  
Fred Sanchez, PS  
Gilbert Chavez, PS

Others Present Elena Garcia, Executive Director, BLPEPS  
Candis Bourassa, Licensing Manager, BLPEPS  
Mary Smith, Assistant Attorney General, Board Counsel  
Ed Ytuarte, Complaint Manager, BLPEPS

Guest None

**1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS**

Mr. Atwell convened the meeting at approximately 1:00 p.m. A roll call was taken, and it was noted that a quorum of the Committee was present.

**2. APPROVAL OF THE AGENDA**

It was moved by Mr. Chavez, second by Mr. Vigil and unanimously,

**VOTED:** To approve the agenda as presented.

**3. APPROVAL OF THE MINUTES**

3.1 February 1, 2007 Minutes - It was moved by Mr. Sanchez, second by Mr. Vigil and unanimously,

**VOTED:** To approve the minutes as presented.

**4. SHOW CAUSE HEARING and hear testimony from licensees**

**4.1 Cases 05-04-01 & 05-04-09 George J. Marquez Jr. – Order to Show Cause Hearing – 1:15 p.m.** Mr. George Marquez, Jr. did not appear.

4.1.1 Case 05-05-07 – Did not request hearing

**4.2 Case 05-04-02 Tommy Conley, PS – Review Compliance – Interview – 1:30 p.m.** Mr. Conley did not appear, but did submit a request for his interview to be rescheduled due to his inability to make the meeting due to medical reasons.

**4.3 Case 04-04-44 Joseph R. Maestas, PS – Order to Show Cause Hearing – 2:00 p.m.** Mr. Maestas arrived after the Board had gone into closed session, therefore the Board recessed to open session to hear his testimony, thereafter resumed closed session.

**4.4 Case 04-04-15 J. Robert Martinez – Review Compliance –** Mr. Martinez requested the appointment – 2:30 p.m. Mr. Martinez did not appear since he submitted a corrected plat to complete the Board’s directives in its Decision & Order and subsequent correspondence.

**4. CLOSED SESSION (Complaints and Violations)** – It was moved by Mr. Sanchez to defer 4.1 through 4.4 until after closed session, second by Mr. Vigil and **VOTED:** To convene in closed or executive session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss only those cases listed in 4.1 through 4.17 of the agenda. A roll call vote was taken. Voting yes, Mr. Atwell, Mr. Chavez, Mr. Vigil and Mr. Sanchez. Motion carried unanimously.

**4.A OPEN SESSION** – Action on cases 4.1 through 4.17 – Mr. Atwell reconvened the meeting in open session and further stated that the discussions in closed session were limited to those cases listed as 4.1 through 4.17 on the agenda. [*...All charges, unless dismissed as unfounded, trivial, resolved by reprimand, or settled informally shall be heard in accordance with the provisions of the ULA, 61-23-27.11(D), NMSA 1978*].

**4.1 Case 05-04-01 & 05-04-09 Mr. Marquez, Jr.** did not appear for the Show Cause hearing for failure to comply with the Board’s Decision and Order. It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

**VOTED:** to immediately revoke Mr. Marquez’ license for failure to comply with the Board Decision and Order, specifically for not making restitution to all clients in accordance with the Board’s order.

**Case 05-05-07 Mr. Marquez, Jr.** did not request a hearing after consideration of the case and the Notice of Contemplated Action issued in this case, it was moved by Mr. Sanchez seconded by Mr. Chavez and unanimously

**VOTED:** To immediately revoke Mr. Marquez, Jr. license to practice surveying.

**4.2 Case 05-04-02 Tommy Conley –** Mr. Chavez moved to table action until the June 14, 2007 meeting, second by Mr. Vigil and unanimously,

**VOTED:** To table this case, 05-04-02, until the June 14, 2007 meeting.

**4.3 Case 04-04-44 Joseph R. Maestas, PS –** Mr. Maestas appeared before the board to explain his non-compliance with the Board’s Decision and Order. Mrs. Garcia noted the required ethics course should have been completed by December 25, 2006 and is yet to be completed. Payment of the proceedings should have been paid by July 27, 2006;

payment was received on February 28, 2007. Mr. Maestas explained he had contacted NMSU Cindy Adair about the required "Survey Ethics" course in November 2006 and she was not longer working there. By January 20, 2007, he called and they could not find such a course in the catalog. Finally he contacted Carol Serna of NMSU and received the enrollment form on 2/1/2007. He is currently taking the course by correspondence with video tapes and manual. It will be completed within 1 ½ months. The class moved to the engineering technology program, which caused some delay. Mr. Maestas presented this report to prevent his license from being immediately revoked. It was moved by Mr. Sanchez, seconded by Mr. Chavez and unanimously,

**VOTED:** To extend the time for completion of this course to June 1<sup>st</sup> when Mr. Maestas is to submit to the Board written proof of completion of the course for review by the Board during the June 14, 2007 meeting. The Board warned him that it would take further actions if there are further discrepancies in his compliance.

**4.4 04-04-15 J. Robert Martinez, PS** –The revised plat for this case has finally been recorded by Mr. Martinez to comply with the Board's Order (there had been a significant delay in recording according to Mr. Martinez due to property owners being behind with their property taxes and the county not wanting to record the plat). This case is now closed.

**4.5 Case 05-05-26 Frank Quarrell, PS** – Status of Compliance – Mr. Ytuarte reported Mr. Quarrell's plat has been satisfactorily revised. It was moved by Mr. Sanchez, seconded by Mr. Chavez and unanimously,

**VOTED:** To write Mr. Quarrell advising him of the limited time to complete the ethics training (8/1/07), and to record his revised plat.

**4.6 Case 06-05-48 Thomas Leyba** – Status of Compliance – Information received by the Board indicates Mr. Leyba may not be in compliance with the Board's Order (#5 & #6 of the Conclusions of Law), and Paragraph 1B2 of the Order regarding the practice of surveying without a license and the Cease and Desist Order, paragraph 2. The board will issue an Order to Show Cause hearing. If he is found to be in noncompliance in the Decision & Order, Mr. Leyba may be fined up to \$2500.00 for non-compliance.

**4.7 06-05-54 John Esquibel, PS** – Status of Compliance – Mr. Ytuarte reports Mr. Esquibel has satisfactorily revised the plat. Ms. Garcia indicates Mr. Esquibel still needs to record the plat approved by the complaint manager and complete the required ethics course by May 1, 2007.

**4.8 07-06-17 new case** – It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

**VOTED:** To issue NCA for violations recorded by the complaint manager.

**4.9 07-06-19** additional investigation – It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously to table this case until Leyba Show Cause Hearing for Cases 06-05-48 is completed as this may provide additional information, second by Mr. Vigil and 3 votes yes, one abstain,

**VOTE:** To table this case. Voting yes: 3 and 1 abstaining.

**4.10 07-06-20 additional investigation** – It was moved by Mr. Sanchez, seconded by Mr. Chavez and unanimously,

**VOTED:** To issue a NCA in this case for violations of 61-23-27.9 and 61-23-27-A10 and rules as noted in the complaint manager's report.

**4.11 07-06-21** – It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

**VOTED:** To dismiss as unfounded case 07-06-21.

**4.12 07-06-22** – It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

**VOTED:** To issue a NCA in this case for violations of statutes & rules as noted in complaint manager's report.

**4.13 07-06-23** – Motion by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

**VOTED:** To issue a NCA case 07-06-23 for alleged violations of statutes & rules as noted in the complaint manager's report.

**4.14 07-06-24** – Motion by Mr. Vigil, seconded by Mr. Sanchez and unanimously,

**VOTED:** To dismiss as unfounded case 07-06-24.

**4.15 07-07-25** – Motion by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

**VOTED:** To table 07-07-25 until the June 2007 meeting.

**4.16 06-05-53** – Motion by Mr. Sanchez, second by Mr. Chavez and unanimously,

**VOTED:** To issue a modified stipulated agreement explaining the choices that are available and acceptable to the board and to the property owners. Ms. Smith & Mr. Vigil are to work on the language for this agreement.

**4.17 06-05-44** – Motion by Mr. Sanchez, second by Mr. Vigil and unanimously,

**VOTED:** To deny request to reopen case 06-05-44.

**4A Appointment of hearing officers as subcommittee to hear cases (second person may also be used as HO/presiding officer alternate): –**

Case 07-06-13, (from last meeting) Mr. Chavez & Mr. Vigil.

Case 06-05-20 Mr. Sanchez & Mr. Atwell.

Case 07-06-22 Mr. Atwell & Mr. Vigil.

Case 07-06-23 Mr. Sanchez & Mr. Atwell.

Case 07-06-17 Mr. Sanchez & Mr. Atwell.

**5. CORRESPONDENCE**

**5.1 Stephen C. Thomas, PE, RLS (TN) RE: Licensing Requirements – Metropolitan State College of Denver, On-Line Surveying Courses/Degree.** Motion by Mr. Chavez, second by Mr. Vigil and unanimously,

**VOTED:** To approve Mr. Thomas's request to acquire necessary survey classes from the Metropolitan State College of Denver through on-line surveying courses (MSC offers an accredited online surveying curriculum). He is to obtain the 18 hours of additional surveying courses to complement his civil engineering degree to be eligible to sit for the NM two hour examination (application by endorsement).

**6. NEW BUSINESS**

**6.1 Inquiry or Monitoring of Survey of Record –** Mr. Chavez has concerns on how to monitor the surveyor of record for firms. He is concerned that a firm may be unauthorized to practice surveying if for example the surveyor of record quits or is fired. Firms are not required to notify the board of any changes in the surveyor of record or of any company or any organizational changes. Mr. Sanchez has seen such situations. Mrs. Garcia states that is the reason other licensing boards have gone to mandating certificates of authorization for firms. Ms. Smith points out this would be registration of firms and would take legislative action. Mr. Vigil suggests a questionnaire be email to surveyors at random to verify their status with the firms. Mrs. Garcia points out even such a survey would be voluntary as is the employer information required on the biennial renewal. She indicates staff continues to maintain a voluntary Engineer of Record and Surveyor of Record Program, acquiring sworn affidavits from owners of firms and licensees to ensure firms are authorized to offer and provide engineering and surveying services through duly qualified/appointed licensees.

**6.2 Enforcement of Advisory Opinion No. 16 (summary of the 2005 supplemental surveying provision in the law) –** Mr. Chavez believes this information which was widely distributed is being ignored. Mr. Chavez would like cities, counties and municipalities to be well informed and adhere to the law. This may be something for the rules committee to address.

**6.3 Advisory on Flood Certification (who is legally qualified to certify) –** Mr. Chavez noted the certificate form lists engineers, surveyors and architects as legally

qualified to sign off on flood certificates when engineers and architects are not qualified to do certification of elevations pursuant to the law in New Mexico. This national FEMA certificate is used to determine the need of flood insurance. Mr. Chavez recommends that the board issue a statement to clarify that in this state, the law requires a surveyor to determine flood plain elevations. Flood plain managers are not aware of this, and it will take board action to get the information to them.

7. **REVIEW OF APPLICATIONS**

7.1 Applications for Licensure – none

8. **ADJOURNMENT** - Having no further business, Mr. Atwell adjourned the meeting.

Submitted by:

Approved by:

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Elena Garcia, Executive Director

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Mr. Charles Atwell, Chair, PSC

\_\_\_\_\_ Approval Date